

**PT 02-24**

**Tax Type: Property Tax**

**Issue: Religious Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS**

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<b>SET FREE CHRISTIAN FELLOWSHIP</b>	)	<b>A.H. Docket #</b>	<b>01-PT-0031</b>
<b>Applicant</b>	)	<b>Docket #</b>	<b>00-90-28</b>
	)	<b>Parcel Index #</b>	<b>02-02-29-109-005</b>
<b>v.</b>	)		
	)	<b>Barbara S. Rowe</b>	
<b>THE DEPARTMENT OF REVENUE</b>	)	<b>Administrative Law Judge</b>	
<b>OF THE STATE OF ILLINOIS</b>	)		

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**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Mr. James Day, Special Assistant Attorney General for the Illinois Department of Revenue.

**Synopsis:**

The hearing in this matter held on November 27, 2001, to determine whether a portion of Tazewell County Parcel Index No. 02-02-29-109-005 qualified for exemption during the 2000-assessment year. Dan Capperrune, Pastor of Set Free Christian Fellowship, (hereinafter referred to as the "Applicant") and Mischele Capperrune, member of applicant, were present and testified on behalf of the applicant.

The issues in this matter include, first, for what portion of the 2000-assessment year did applicant own the subject property; and secondly, whether applicant used the pasture area and horse barn for exempt purposes during the 2000-assessment year. After a thorough review of the facts and law presented, it is my recommendation that Tazewell County Parcel Index No. 02-02-29-109-005 be exempt from property taxation for 50% of the 2000-assessment year. In support

thereof, I make the following findings and conclusions in accordance with the requirements of Section 100/10-50 of the Administrative Procedure Act (5 ILCS 100/10-50).

**FINDINGS OF FACT:**

1. The jurisdiction and position of the Department that Tazewell County Parcel Index No. 02-02-29-109-005 did not qualify for a property tax exemption for the entire 2000-assessment year were established by the admission into evidence of Dept. Ex. No. 1. (Tr. p. 8)

2. On December 5, 2000, the Department received the request for exemption of Tazewell County Parcel Index No. 02-02-29-109-005. On March 15, 2001, the Department denied in part the requested exemption finding that the property was exempt from taxation “except for the horse barn, the land on which it stands, and the pasture area which is taxable as it is not in exempt use.” The portion of the exemption granted was for 9% of the 2000-assessment year. On April 9, 2001, the applicant timely protested the denial and requested a hearing. The hearing on November 27, 2001, was held pursuant to that request. (Dept. Ex. No. 1)

3. Applicant acquired the subject parcel by a quitclaim deed dated July 3, 2000. In its partial denial, the Department relied upon a corrective quitclaim deed dated November 28, 2000, which was submitted with the application. The Department concedes that applicant owned the property at the earlier date. (Applicant’s Ex. No. 1; Dept. Ex. No. 1; Tr. p. 35)

4. The subject property contains 18 acres and includes a 1,739 square foot house and a 2,508 square foot horse barn. (Dept. Ex. No. 1)

5. Applicant was organized under the Religious Corporation Act, 805 ILCS 110/0.01 *et seq.* on June 22, 2000, exclusively for charitable, educational, religious, or scientific purposes within the meaning of Section 501(c)(3) of the Internal [Revenue] Code. The Religious Corporation Affidavit was filed with the Peoria County Recorder of Deeds on June 23, 2000. (Dept. Ex. No. 1)

6. In the application process, the Department requested additional information regarding the use of the horse barn and pasture. In response, applicant took into consideration its

future plans to build a new church and retreat center on the subject property with horseback riding and additional recreational activities. As those buildings were not yet constructed, and applicant wanted to be totally honest, it replied that the areas were not being used. (Dept. Ex. No. 1; Tr. p. 13)

7. The pasture area consists of wooded areas and a lake. Applicant used the lake for baptism of new members in 2000. The congregation went outside to view the event. (Applicant's Ex. No. 2, pp. 4, 5, 6; Tr. pp. 21-22)

8. Following worship, recreational activities of the church's members also took place in the pasture area. In 2000, the applicant installed lights along the road leading into the area and a new fence. (Applicant's Ex. Nos. 2, 3, pp. 1-3, 7-10; Tr. pp. 19-26)

9. The horse barn was used for storage of applicant's lawn equipment and vehicles. (Tr. pp. 32-33)

### **CONCLUSIONS OF LAW:**

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the

exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax for religious purposes. The exemption is found at 35 ILCS 200/15-40 and states:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, . . .

The applicant was granted a partial exemption for the real property at issue except for the horse barn and the horse pasture that the Department found not to be in exempt use. The partial exemption was granted for 9% of the assessment year. Applicant submitted an original deed at the hearing establishing its acquisition of the property on July 3, 2000. The Department concedes that July 3, 2000, is the date of acquisition. Therefore, the only issue before me is the use of the horse barn and pasture area.

Applicant, with testimony and exhibits, established that the pasture area was used for baptism purposes and recreational activities of the congregation after worship service. Lights and a fence were added on the property in 2000. Real property satisfies the requirement of being exclusively used for religious purposes if the property is primarily used for religious purposes. Lutheran Church of Good Shepherd of Bourbonnais v. Department of Revenue, 316 Ill.App.3d 828 (3<sup>rd</sup> Dist. 2000)

Applicant used the horse barn for storage of its vehicles and lawn equipment. The appellate court of Illinois has determined that property owned by a church and used for storage of church records and furniture qualified for a property tax exemption in Our Savior Lutheran Church v. Department of Revenue, 204 Ill.App. 3d 1055 (5<sup>th</sup> Dist. 1990), *leave to appeal denied* 136 Ill.2d 546 (1991).

It is therefore recommended that Tazewell County Parcel Index No. 02-02-29-109-005 be exempt from taxation for the period of July 3, 2000 through December 31, 2000, or for 50% of

the 2000-assessment year, the portion that the applicant owned and used the property for religious purposes.

Respectfully Submitted,

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Barbara S. Rowe  
Administrative Law Judge  
April 11, 2002